IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 14982 of 2004

Between:

Smt.Poospati Padmavati @ Padma, W/o Sri Raghurama Raju,
Dr.No.18-1-65, K.G.H.Road, Maharanipet, Visakhapatnam.

..... PETITIONER

AND

The Commissioner, Visakhapatnam Municipal Corporation,
Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in demanding the property tax by issuing the distress notice dated 3-8-2004 is illegal, arbitrary and contrary to Section 276 of the Hyderabad Municipal Corporation Act, 1955 and consequently direct the respondent to issue a Bill to the extent of the property in the occupation of the petitioner by following the procedure under Section 276 of the Hyderabad Municipal Corporation Act, 1955

Counsel for the Petitioner:MR.G.RAMA GOPAL

Counsel for the Respondent No.: MR.T.S.VENKATARAMANA-

-STANDING COUNSEL FOR MCH, VISAKHAPATNAM.

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties.

The only controversy in this writ petition is with regard to the extent of ownership of the petitioner. A distress notice was issued by the Commissioner, Visakhapatnam Municipal Corporation, addressed to the premises of the petitioner, in the name of one Mr.P.Subba Rao. The petitioner has filed the writ petition challenging the notice on the ground that originally she was tenant of the property of Mr.P.Subba Rao and somewhere in 1994, she purchased 300 square yards out of the total property of 660 square yards from the successors of Mr.P.Subba Rao. The petitioner admits her liability to pay tax with respect to 300 square yards, but not for the whole of the land measuring 660 square yards. The respondent is also not in a position to say before this Court that who succeeded Mr.P.Subba Rao, as the owner of the land, after the said Subba Rao disposed of his property.

In these circumstances, we direct that proportionate tax along with arrears shall be collected from the petitioner. Her property shall be taken to be an extent of 300 square yards. The respondent shall also proceed against the owners of the remaining property and for that purpose, he has the liberty to make any enquiries permissible under law, and if at any point of time, he found that the writ petitioner is the real owner of the rest of the property also, the tax can be recovered from her.

The petitioner shall deposit, within a period of eight weeks from today, an amount of Rs.75,000/- (Rupees Seventy Five Thousand only) towards tax and in the meantime, respondent shall issue notice referring the liability of the petitioner and the petitioner shall pay the balance tax, if any, after paying Rs.75,000/-, in accordance with the directions given by the respondent.

The writ petition is accordingly disposed of. No order as to costs.

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(BILAL NAZKI, J)

22nd September, 2004.

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(S.ANANDA REDDY, J)

vrn

To

1 The Commissioner, Visakhapatnam Municipal Corporation, Visakhapatnam.

2 Two C.D copies